

**REMARKS/ARGUMENTS**

In the Office Action mailed May 18, 2004, claims 1-21 were rejected. Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein. The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references.

Applicants have amended claims 1, 17 and 20. No claims have been cancelled. Claims 22 and 23 have been added. As such, claims 1-23 remain pending.

**CLAIM REJECTIONS – 35 U.S.C. § 102(b)**

The Examiner rejected claims 1-4 and 17-19 under 35 U.S.C. §102(b) as being unpatentable over United States Patent No. 3,877,005 to Apgar. (hereinafter referred to as "Apgar"). In light of the following remarks, Applicants respectfully submit that these claims are allowable.

Initially, Applicants note that it is axiomatic that to qualify as an anticipation under Section 102, the cited reference must "bear within its four corners adequate directions for the practice of the patent invalidated." (See, for example, Dewey & Almay Chemical Co. v. Mimex Co., Inc., 52 U.S.P.Q. 138 (2<sup>nd</sup> Cir. 1942)). Applicants respectfully submit that Apgar embodies no such directions.

More particularly, Applicants respectfully submit that Apgar, at the very least, does not disclose the element of positioning the camera such that blind spots are substantially constrained, which is contained in each of the pending independent claims. Apgar discloses a detecting system for a fire alarm box, which includes an alarm circuit connected to a switch. The switch

actuates a television camera and an identifying spray device. The camera, as is shown in FIG. 2, is mounted in the upper portion of the box at an angle resulting in the range of view of the camera being substantially limited or constrained. The positioning of the camera in the pull station is a determinative factor in reducing camera blind spots. With Apgar's positioning , it is possible for a nefarious individual to activate the pull station without being detected by the camera.

The present invention, on the other hand, positions the camera within the housing such that the blinds spots are substantially limited or constrained. As detailed in the as-filed application, the camera is mounted in the housing so that the lens is a distance from the lever such that when the pull-station is actuated, the field of view of the lens is not obstructed. The application additionally discloses positioning the camera such that the view range of the camera is  $180^0$ , which prevents an individual from approaching the pull-station and hiding closely adjacent to the planar surface. *See page 10, lines 6-16 of application.*

Apgar does not disclose the positioning of the camera in such a manner that an individual would have difficulty in avoiding its detection as in claimed in the present invention. In fact, Apgar's positioning of the camera has the opposite effect in that it clearly creates blind spots, thus, allowing an individual to escape its intended effect.

In light of the foregoing arguments, withdrawal of the rejection of claims 1-4 and 17-19 under 35 U.S.C. § 102(b) as being anticipated by Apgar is respectfully requested since it does not disclose all the elements to support a finding of anticipation.

### **CLAIM REJECTIONS – 35 U.S.C. § 103(a)**

The Examiner rejected claims 5, 6, 14, 15, 16, 20 and 21 under 35 U.S.C. § 103(a) as being obvious over Apgar. Additionally, the Examiner rejected claims 7-13 under 35 U.S.C. § 103(a) as being obvious over Apgar in view of United States Patent Application No. 20040088345 to Zellner *et al.* (hereinafter referred to as “Zellner”).

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. *MPEP* §2142. To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, to modify the references or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art must teach all the claim limitations. *MPEP* §2142.

Claims 5-16 ultimately depend from independent claim 1, either indirectly or directly. In light of the previous discussion regarding Apgar as it relates to claim 1, the references, either individually or in combination, do not teach or suggest all the limitations to support an obviousness rejection.

Claim 20 has been amended in line with the amendments of independent claims 1 and 17, which specifically detail the positioning of the camera such that the blind spots are substantially constrained. Therefore, the previous arguments regarding Apgar are applicable to this claim as well. As such, the Apgar does not disclose or teach all the elements to support an obviousness rejection. As to claim 21, it depends from claim 20, an allowable claim, and thus is allowable as well.

In light of the foregoing arguments, Applicants respectfully request that the rejection of claims 5-16, 20 and 21 be removed.

### CONCLUSION

In view of the foregoing remarks, Applicants respectfully request that all objections and rejections to the pending claims be removed. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 202-861-1703 in an effort to resolve any matter still outstanding before issuing another action. The undersigned attorney is confident that any issue, which might remain, can readily be worked out by telephone. In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to Attorney Docket No. 87319.3060.

Respectfully submitted,

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